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Memorandum

Date: June 26, 2006

To: Pamela C. Creedon, Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

From: Department of Water Resources

Subject: Draft Order No. R5-2006-____; NPDES No. CA-0079154, Waste Discharge Requirements for City of Tracy, Tracy Waste Water Treatment Plant, San Joaquin County

The Department of Water Resources (Department) strongly objects to the Draft NPDES Permit for the City of Tracy. This permit would allow greater discharges of salt into a channel that, as established by the State Water Resources Control Board, is under a threat of non-compliance with water quality objectives. The Department, as the operator of the State Water Project, and the Bureau of Reclamation (Reclamation), as operator of the Central Valley Project, are subject to a Cease and Desist Order (WR 2006-0006) issued by the State Water Resources Control Board to remove a threat of non-compliance with water quality objectives at three locations in the south Delta.¹ As shown in the attached map, one of these stations (P-12) is directly downstream of the outfall and the other (C-8) is upstream.

Contrary to its supporting attachments, the Draft Order does not implement the water quality objectives of the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (May 1995). In implementing the Water Quality Control Plan (WQCP), Water Rights Decision 1641 requires the Department and Reclamation to meet the salinity objectives of 700 $\mu\text{mhos/cm}$ from April through August and 1000 $\mu\text{mhos/cm}$ from September through March at these stations. The City of Tracy is currently discharging at salinity levels averaging 1753 $\mu\text{mhos/cm}$, over twice that of the receiving water objective, with maximum levels exceeding 2400 $\mu\text{mhos/cm}$. The Draft Order imposes an extremely weak effluent limitation for salinity of 2267 $\mu\text{mhos/cm}$ and includes an unenforced goal of 1350 $\mu\text{mhos/cm}$. It includes no requirement for source control on the industries and no recycling requirement. The current waste water discharge is slightly more than 7 mgd and is permitted to discharge up to 9.0 mgd. Under the Draft Order, the volume of discharge will be allowed to increase by 20 percent (from a limit of 9 mgd to 10.8 mgd) on August 1, 2008. The expected increased volume of the discharge from 7 to 9 mgd currently permitted and the increases in discharge considered in the Draft Order will increase the salt load and

¹ This Cease and Desist Order (CDO) was issued despite the fact that the 1995 WQCP identifies that multiple factors contribute to salinity exceedances at the interior south Delta stations and that during the last 10 years Reclamation has consistently met the salinity objective at Vernalis on the San Joaquin River.

concentration in Old River. As pointed out in Attachment F page F-45 of the Draft Order, this reach of Old River frequently has no assimilative capacity. The Draft Order, if accepted, would aggravate salinity conditions in the south Delta and increase the frequency the water quality objectives would be exceeded.

The WQCP is designed to be implemented in conjunction with RWQCB decisions to provide a coordinated approach to protecting the beneficial uses of the Bay-Delta estuary. The Draft Order is inconsistent with the approach intended by the WQCP and Water Rights Decision 1641, which focus on actions in the south Delta to control in-Delta discharges of salt, improve dilution flows and circulation. Neither suggests that municipal dischargers of salt in the south Delta should be allowed to increase salinity discharges as their cities grow and the municipal waste water discharges increase.

This Draft Order allows the City of Tracy to degrade water quality in the south Delta while the responsibility for meeting the south Delta salinity objectives falls primarily upon the Department and Reclamation. It alleviates the City of Tracy from any responsibility for degrading water quality in Old River and, together with the SWRCB's Cease and Desist Order (which is now being challenged in court as inappropriate), makes the Department and Reclamation responsible for diluting the increased discharge of salt from growth in that city. The Department does not discharge waste to these waters but, per the challenged Cease and Desist Order, is nevertheless being held responsible for meeting the water quality objectives for threatened violations under threat of project curtailment or Administrative Civil Liabilities.

As described in the CALFED Program's Delta Improvements Package, actions are being pursued to improve water quality on the San Joaquin River and within the south Delta. Specifically, the Department is moving forward to improve water circulation in the south Delta. Currently tidal influence on this area during the irrigation season causes wastes discharged to Old River to accumulate as they move back and forth with the tides. The permanent operable gates recommended in the South Delta Improvements Program (a draft Environmental Impact Statement/Environmental Impact Report was issued in November 2005) will change the condition of nearly stagnant flows to one where the net flows are in one direction. These gates are planned to be operational by April 2009.

Pamela C. Creedon
June 26, 2006
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The Department requests the Regional Board reconsider the portions of this Draft Order relating to salinity discharges in Old River. We recommend the Regional Board consider changes to the City of Tracy's waste discharge permit within the larger context of its impact on the basin-wide efforts underway to implement the WQCP and reduce salinity in south Delta channels. Specific comments on the Draft Order are attached. If you wish to discuss this issue further, please contact me at kkelly@water.ca.gov or at the telephone number below.

Sincerely,

A handwritten signature in cursive script that reads "Katherine Kelly". The signature is written in black ink and is positioned above the typed name and title.

Katherine F. Kelly, Chief
Bay-Delta Office
(916) 653-1099

Attachment

cc: (See attached list.)

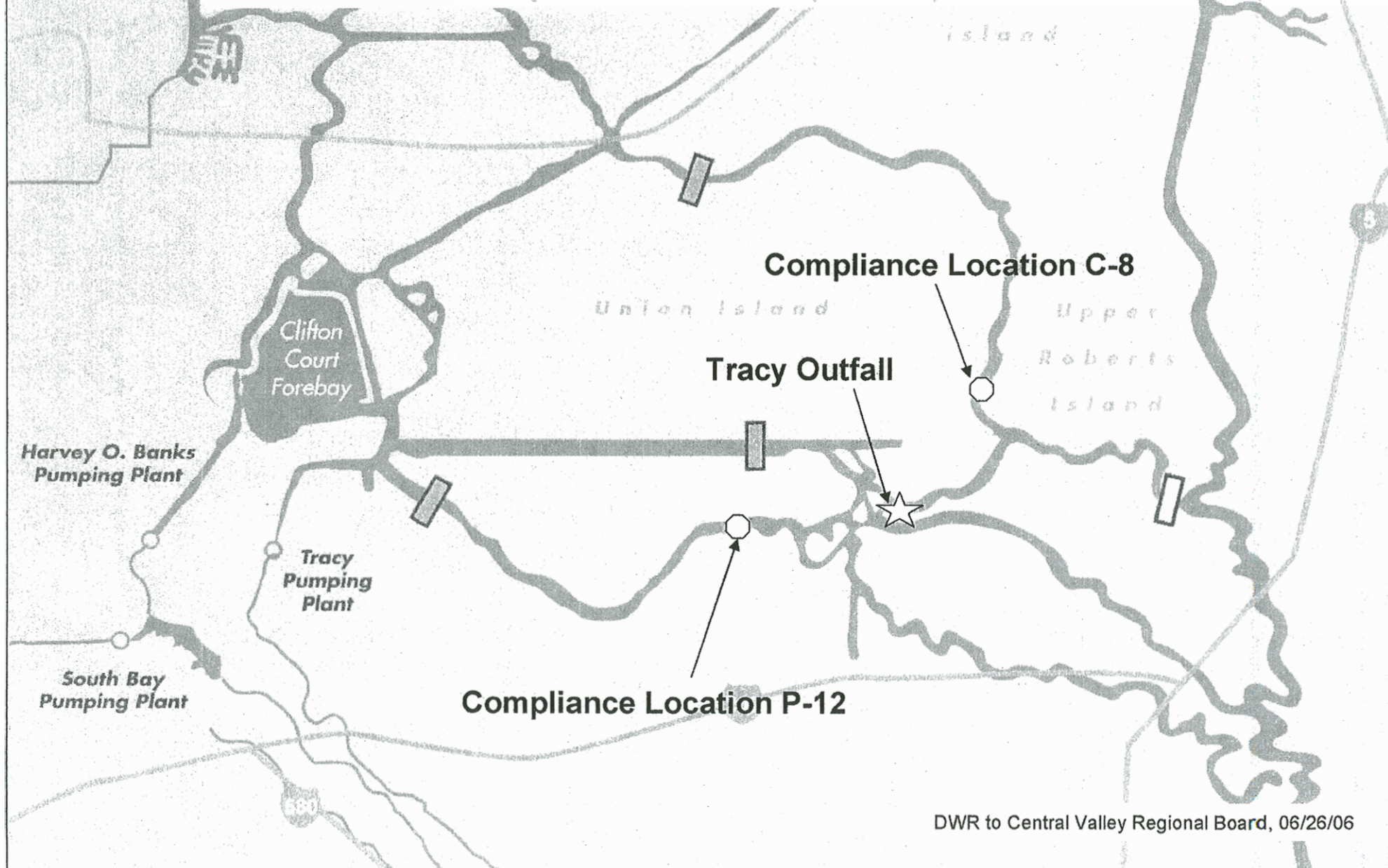
Terry Erlewine, General Manager
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**Locations of South Delta Temporary Barriers, City of
Tracy Waste Water Outfall, and Water Quality Objectives
Compliance Stations (D-1641)**



Attachment

- (1) The Best Practicable Treatment or Control (BPTC) of Salinity (page 21 Limitations and Discharge Requirements) effectively delays any imposition of tighter effluent limitations for a minimum of two and one-half years. Any new effluent limitation required as a part of this BPTC study should be available for comment by interested parties once it is developed and before the permit is reopened to insert it.
- (2) Apparently the Board is considering Land Discharge Specifications in a separate Waste Discharge Requirement Order for the groundwater under and near the unlined industrial wastewater ponds. Proposed changes in remediation of the groundwater or decreasing infiltration of the ponds, such as lining them, could effect the salinity levels of the waste water discharge covered in this draft Order (Number R5-2006-____). These two orders should be considered jointly.
- (3) The Electrical Conductivity (EC) Study (page 21 Limitations and Discharge Requirements) does not contain any consideration of the crop type (Attachment F -- Fact Sheet mentions beans). The study should include a reference to crop type because the type of crop defines the EC objective for the 1995 Water Quality Control Plan. Crop type is an essential element when considering site-specific numeric values for EC that fully protect Old River's agricultural supply use designation.
- (4) The reference to the South Delta Improvements Program on Page F-16 should be replaced with the following, more current, information:
 - b) **CALFED South Delta Improvements Program (SDIP).** CALFED issued a Record of Decision in August 2000, which included the following elements related to the South Delta:
 - Dredge and install operable barriers to ensure delivery of adequate quantity and quality water to agricultural diverters within the South Delta.
Consider increasing State Water Project (SWP) pumping from March 15 to December 15; and modify existing pumping criteria from December 15 to March 15 to allow greater use of SWP export capacity up to 8,500 cfs.
Design and construct new fish screens at the Clifton Court Forebay and Tracy pumping plant facilities to allow the export facilities to pump at full capacity more regularly.
Consider increasing SWP pumping to the maximum capability of 10,300 cfs once improved screens are in place.

A significant change in the proposed program arose as a result of the pelagic organism decline which emerged in spring 2005. Presently, the South Delta Improvements Program (SDIP) is segmented into two separate proposed actions: Stage 1, the installation and operation of the physical structural component; and Stage 2, the increase of the diversion capability of Clifton Court Forebay from a 6,680 cfs level to the 8,500 cfs level. Stage 1, which includes placement of a permanent operable fish gate at the head of Old River, up to three permanent operable flow control gates in south Delta channels, dredging of Middle River and extension of some agricultural diversions, is currently being sought through permitting and ESA consultation. Stage 2, which includes increasing the diversion capability, will be re-evaluated once more data is received as a part of the Pelagic Organism Decline Studies.

This resulted in the proposed SDIP. The Department and Reclamation are responsible for implementing the SDIP. A draft EIS/EIR is was released November 10, 2005 for public comment. The Board submitted comments on February 7, 2006. The Department expects the Final EIS/EIR to be completed in the summer of 2006 and permanent flow control structures to be operable by April 2009.